
SOUTH AFRICAN REVENUE SERVICE

**DRAFT GUIDE ON THE SOLAR
ENERGY TAX CREDIT PROVIDED
UNDER SECTION 6C**

Another helpful guide brought to you by the
South African Revenue Service



Draft guide on the Solar Energy Tax Credit provided under Section 6C

Preface

This draft guide provides general guidance on the newly introduced solar energy tax credit under section 6C of the Income Tax Act 58 of 1962.

It does not consider the technical and legal detail that is often associated with tax, and should, therefore, not be used as a legal reference.

This guide is not an “official publication” as defined in section 1 of the Tax Administration Act 28 of 2011 and accordingly does not create a practice generally prevailing under section 5 of that Act. It is also not a binding general ruling under section 89 of Chapter 7 of the same Act. Should an advance tax ruling or a VAT class ruling or VAT ruling under section 41B of the Value-Added Tax Act 89 of 1991 be required, visit the **SARS website** for details of the application procedure.

This draft guide is based on the legislation as at date of issue.

All acts, explanatory memoranda, guides, binding general rulings, and interpretation notes referred to in this guide are the latest versions available on the **SARS website**, unless the context indicates otherwise.

For more information you may –

- visit the SARS website at **www.sars.gov.za**;
- contact the SARS National Call Centre –
 - if calling locally, on 0800 00 7277; or
 - if calling from abroad, on +27 11 602 2093 (only between 8am and 4:30pm South African time);
- have a virtual consultation with a SARS consultant by making an appointment via the **SARS website**;
- visit your nearest SARS branch, after making an appointment via the **SARS website**;
or;
- contact your own tax advisor or practitioner.

Comments on this guide may be e-mailed to **policycomments@sars.gov.za**.

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Glossary

In this guide, unless the context indicates otherwise —

- “**renewable energy**” means energy produced from sources such as sunlight, wind and water which are naturally replenished and do not run out;¹
- “**Schedule**” means a Schedule to the Act;
- “**section**” means a section of the Act;
- “**solar PV panels**” means solar photovoltaic panels;
- “**TA Act**” means the Tax Administration Act 28 of 2011;
- “**the Act**” means the Income Tax Act 58 of 1962; and
- “**tax credit**” means the solar energy tax credit available under section 6C.

1. Background

The current energy crisis in the country coupled with the rising demand for electricity has resulted in various tax incentives and policy measures being introduced in an attempt to alleviate the pressure on the national grid² as well as to improve energy efficiency in South Africa.

Although the focus has generally been to promote cleaner technologies in businesses, emphasis has shifted to also encourage the use of renewable energy technology in residential properties while still providing further allowances to businesses.

To this effect, two short term incentives have been introduced, namely a solar energy tax credit under section 6C for natural persons and an enhanced deduction in respect of certain assets used in the production of renewable energy under section 12BA for taxpayers who conduct a trade.³

2. Solar energy tax credit

In order to encourage households to invest in clean electricity generation capacity as soon as possible, a tax credit has been introduced under section 6C for a limited time period.⁴ Section 6C is deemed to have come into operation on 1 March 2023 and applies in respect of years of assessment commencing on or after this date. Furthermore, this section is only available for a period of one year, that is, from 1 March 2023 to 29 February 2024.

This tax credit applies to natural persons who are liable for personal income tax and who invest in qualifying solar PV panels (see 2.1.2).

¹ www.un.org/en/climatechange/what-is-renewable-energy#:~:text=Renewable%20energy%20is%20energy%20derived,plentiful%20and%20all%20around%20us [Accessed 25 January 2024].

² A grid (or power grid) is a network of power lines and associated equipment used to transmit and distribute electricity over a geographic area. See www.collinsdictionary.com/dictionary/english/power-grid [Accessed 25 January 2024].

³ See Taxation Laws Amendment Act, 17 of 2023.

⁴ Paragraph 1.3 of the *Draft Explanatory Memorandum on the Draft Taxation Laws Amendment Bill, 2023*.

Under this section, a natural person may be eligible for the tax credit on the cost that has been actually incurred in respect of the acquisition of qualifying solar PV panels. The cost relating to other components of a complete solar energy system such as inverters, batteries and supporting structures do not qualify for the tax credit.⁵ The rationale behind allowing a deduction on the cost of only the solar PV panel is owing to the fact that it is the solar PV panels which promote or expand electricity generation capacity in the country. Inverters and batteries on their own, create no additional supply of electricity and may even increase the demand from the electrical grid. While batteries and inverters can be used on their own to provide a private benefit to a particular household, it is the addition of solar PV panels that enhances generation supply, which provides a public benefit.

Since the intention is to encourage natural persons to invest in renewable energy, the carrying on of a trade is not a requirement to be eligible to claim this tax credit.

2.1 The requirements of section 6C

The tax credit under section 6C applies in respect of the cost actually incurred by the natural person –

- for the acquisition of any new and unused solar photovoltaic panels, the generation capacity of each being not less than 275W [section 6C(2)(a)(i)]; and
- if the solar photovoltaic panels referred to in subparagraph (i) are brought into use for the first time, by that person on or after 1 March 2023 and before 1 March 2024 [section 6C(2)(a)(ii)].

2.1.1 Persons eligible for the solar energy tax credit

Under section 6C(1), the tax credit is available to any *natural person* who complies with all the requirements of this section.

The term “natural person” is not defined in the Act. The grammatical meaning of the term, as defined in the *Merriam Webster Online Dictionary*, is “a human being as distinguished from a person (as a corporation) created by operation of law”.⁶ This means that for purposes of section 6C, a credit will not be available to any juristic persons such as companies or entities of a similar nature. A body corporate or home-owner’s association that installs solar PV panels in sectional title schemes or residential complexes will thus not be eligible for the tax credit. Trusts will also not qualify for the tax credit even if all their beneficiaries are natural persons.

2.1.2 Solar photovoltaic panel requirements

Solar PV panels are a web of photovoltaic cells or panels that captures solar power and transforms it into sustainable energy.⁷ Essentially, when the sun shines onto a solar PV panel, energy from the sunlight is absorbed by the photovoltaic cells in the panel which creates electrical charges that, through an internal process, causes electricity to flow.⁸

The solar PV panels usually form part of a bigger system and can include, for example, inverters, batteries and mounting or supporting structures. However, as stated in [2](#), the tax credit is only applicable to the cost of the solar PV panels.

⁵ Section 6C(2)(a)(i) refers only to the cost of solar PV panels.

⁶ www.merriam-webster.com/legal/natural%20person [Accessed 25 January 2024].

⁷ www.enelgreenpower.com/learning-hub/renewable-energies/solar-energy/photovoltaic-module [Accessed 25 January 2024].

⁸ www.energy.gov/eere/solar/how-does-solar-work#:~:text=When%20the%20sun%20shines%20onto,cell%2C%20causing%20electricity%20to%20flow [Accessed 25 January 2024].

In order for a natural person to qualify for the tax credit relating to the solar PV panels, certain requirements under section 6C have to be met, namely that –

- the panels must be new and unused,
- the generation capacity of each panel must be not less than 275W; and
- the panels must be brought into use for the first time, by the natural person that acquired it, on or after 1 March 2023 and before 1 March 2024.

a) Solar photovoltaic panels must be “new and unused”

In order to qualify for the tax credit, the solar PV panels must be new and unused. Whether the panels are new and unused is a factual enquiry based on the facts of each case. For purposes of this section, the panels must be both new *and* unused.

To be considered “new”, the solar PV panels must have been recently acquired and installed and mounted on or affixed to a residence mainly used for domestic purposes. In the event that the panels had been acquired years before but had not been installed, it would be unused but not new. Unused means that the panels must not have been previously used for any purpose by any person.

b) Generation capacity of solar photovoltaic panels

In addition to the panels being new and unused, the generation capacity of each panel must not be less than 275W. This means that the generation capacity, that is, the amount of energy that a panel can produce, is not considered in the context of a set of panels as a whole. Instead, an evaluation must be conducted per panel. If a panel produces less than 275W of energy, a tax credit will not be applicable on the cost of this particular panel.

c) Solar photovoltaic panels must be “brought into use for the first time”

The tax credit is available only if the solar PV panels are brought into use for the first time by the same natural person that acquired it on or after 1 March 2023 and before 1 March 2024.

Boruchowitz J, in ITC 1804, explained the rationale behind the phrase “brought into use for the first time by that taxpayer” as follows:⁹

“...the allowance is available only if the asset is brought into use for the first time by the taxpayer (or his lessee, where applicable). This requirement prevents a taxpayer from claiming that the allowance is available for a further five, four or three years on an asset that was previously brought into use by him (or his lessee), is retired from use and is then brought into use again.”

The determination of when a solar PV panel can be said to have been brought into use for the first time by the natural person is a factual one. The authors of *Juta’s Tax Library* correctly state the following:¹⁰

“The asset must be used in a way consistent with the intended and future use.”

It can thus be said that a panel is “brought into use” when it has been installed and used by a person for its intended purpose, that is, the generation of renewable solar energy. Further, the solar PV panel must be used in such a way that it in fact forms an integral part of the photovoltaic solar energy system. A once-off use is not sufficient as this will be considered inconsistent with the intended use of the panel. As such, a solar PV panel cannot be brought

⁹ 68 SATC 105 at page 109.

¹⁰ Davis, D. *et al. Juta’s Tax Library* [online] (Jutastat e-publications: 30 November 2017) in Commentary on Income Tax – section 12C(1).

into use for an isolated instance merely to take advantage of the solar energy tax credit and then be uninstalled.

Importantly, the requirements of both sections 6C(2)(a)(i) and (ii) must be met – the solar PV panels must be new and unused, *and* the panels must be brought into use for the first time by that person on or after 1 March 2023 and before 1 March 2024. Should either of these requirements not be met, the individual will not be eligible for the solar energy tax credit.

Example 1 – The requirements “new and unused” and “brought into use for the first time”

Facts:

Homeowner S purchased two solar PV panels in 2019 to alleviate loadshedding challenges. These panels were immediately installed and brought into use. In 2020, S purchased three pre-used panels from a company which was liquidating and had no more use for the panels. Owing to the size of the battery and inverter, only two of these panels were installed. Homeowner S upgraded the solar system in April 2023 which entailed the purchase of an additional battery and three more panels. Of these three panels, one had a generation capacity of 250W and the other two were 280W. All the panels, including the one which was purchased but not installed in 2020, were installed and brought into use in May 2023.

Homeowner S wanted to claim the tax credit for the four panels installed and brought into use in 2023 against normal income.

Result:

In order to determine whether all four panels qualified for the tax credit, each panel had to be considered independently.

The panel which was pre-used, acquired in 2020 and remained uninstalled until 2023

This panel did not meet the requirements under section 6C(2)(a)(i) that is, the solar PV panel was not new and unused. In other words, the panel had been acquired second hand failing the “new” test. It had, furthermore, not been installed when it was purchased in 2020 which also means that the requirement of “new” was not complied with. Even though the panel was brought into use for the first time by Homeowner S on or after 1 March 2023 and before 1 March 2024, both the requirements under sections 6C(2)(a)(i) and (ii) had to have been met. Therefore, the tax credit relating to this panel could not be claimed.

Panels which were purchased and installed in 2023

These panels complied with the requirements “new and unused” and “brought into use for the first time by that taxpayer on or after 1 March 2023 and before 1 March 2024”. The generation capacity of these panels had to, however, also be taken into consideration. Section 6C(2)(a)(i) requires that each panel must not be less than 275W. Two of the panels had a generation capacity of 280W and the other one 250W. The latter panel thus did not meet the requirement. As such, Homeowner S could claim the tax credit relating to the two qualifying panels.

d) Installation requirements of the solar photovoltaic panels

In addition to the requirements under section 6C(2)(a), specific mandatory requirements are contained in section 6C(3).

These are that:

- the solar PV panels must be installed and mounted on or affixed to a residence mainly used for domestic purposes by the natural person referred to in section 6C(2)(a);
- the installation is connected to the distribution board of such residence; and

- an electrical certificate of compliance contemplated in the Electrical Installation Regulations, 2009, is issued in respect of the installation referred to above.

Installed and mounted on or affixed to a residence

Section 6C(3)(a) requires that the solar PV panels must be installed and mounted on or affixed to a residence. Therefore, if a taxpayer acquires solar PV panels but does not install and mount it to a residence and does not bring it into use, no tax credit may be claimed.

The terms “install”, “mounted” and “affixed” are not defined in the Act and should, therefore, be interpreted according to their ordinary meaning as applied to the subject matter with regard to which they are used.¹¹

According to the online *Collins Dictionary*, the words “install”, “mounted”, and “affix” are defined as follows:

“Install: 3. to fix in position for use.”¹²

Mounted: 4. to fix onto a backing, setting, or support.¹³

Affix: 1. To attach, fasten, join, or stick.”¹⁴

The coordinating conjunction “and” is used between the words “installed” and “mounted on or affixed to” which means that the solar PV panels must be installed *and* mounted on or affixed to the residence mainly used for domestic purposes. The legislation does not prescribe the exact place where the PV panels must be mounted on or affixed to the residence. Due to various technical reasons it may not be possible or feasible to mount or affix the PV panels to the residential building itself, but rather, for example, to an outbuilding or independent support structure. In considering whether the requirement of “mounted on or affixed to” the residence has been met, regard has to be had to the purpose of section 6C, namely that the rebate should benefit natural persons at their private residences, rather than a literal interpretation of the words.¹⁵ The facts of each case must be considered.

Many solar PV panel systems will be of a permanent nature, since they are wired into the electrical system of the premises and become integrated into the permanent structure.¹⁶ As such, the panels must be mounted on or affixed to the residence in such a way that there is a certain degree of permanency which would ensure the effective and sustained use of the solar PV panels. This will be a factual question.

Under the common law principle of *superficies solo cedit* (owned by accession) moveable property becomes immovable when affixed or attached to the land. Whether an asset has been affixed or attached to the land to become immovable, three factors are relevant, namely –

- the nature of the asset;

¹¹ Kellaway, E. A. (1995) *Principles of Legal Interpretation of Statutes, Contracts and Wills* at 224. Butterworth’s: Durban. Also, see Steyn, L. C. (1981) *Die Uitleg van Wette* (5 ed) at 4 to 7. Juta and Company (Pty) Ltd.

¹² www.collinsdictionary.com/dictionary/english/install [Accessed 25 January 2024].

¹³ www.collinsdictionary.com/dictionary/english/mount [Accessed 25 January 2024].

¹⁴ www.collinsdictionary.com/dictionary/english/affix [Accessed 25 January 2024].

¹⁵ In *Capitec Bank Holdings Ltd and another v Coral Lagoon Investments 194 (Pty) Ltd and others* [2021] 3 All SA 647 (SCA) the principle of interpretation was confirmed that it is the language used, understood in the context in which it is used, and having regard to the purpose of the provision that constitutes the unitary exercise of interpretation.

¹⁶ See Interpretation Note 47 “Wear-and-Tear or Depreciation Allowance” for further detail on the meaning of “permanent nature”.

- the manner of its annexation; and
- the intention of the person affixing the asset.

The first two factors are determined objectively while the third test is subjective. The assessment of these criteria is dependent on the facts of each case. The requirement under section 6C that the solar PV panels must be installed and mounted to a residence does not mean that the panels must be attached in such a way that the principles of accession must be met. The terms “installed” and “mounted” suggest that generally acceptable industry norms and standards for installation of the solar PV panels must be met. This is a factual determination.

Section 6C does not require the natural person wanting to claim the tax credit to be the owner of the residence where the solar PV panels are installed and mounted. This means that a lessee or any natural person who occupies a residence for domestic purposes and who has acquired and actually incurred the costs of the solar PV panels may be eligible for the tax credit.¹⁷ In the event that a lessee of a residence who actually incurred the costs of the solar PV panels moves out of the residence that such panels are installed and mounted on or affixed to, the owner of the house or the new lessee will not be able to qualify for the credit on the cost of the same panels since the owner or new lessee has not acquired the solar PV panels, have not actually incurred the cost nor was it new and brought into use for the first time.

If the residence is registered in the name of a juristic person or trust, the registered owner will not be eligible for the tax credit. A body corporate or home-owner’s association that installs solar PV panels on the common property in sectional title schemes or residential complexes will also not be eligible for the tax credit. A natural person occupying such residence may, however, qualify for the tax credit if that natural person has actually incurred the cost of the solar PV panels and subject to meeting the other requirements under section 6C.

If the owner of solar PV panels uninstalls the panels from a residence and reinstalls it at another residence, this person will not be eligible to claim the tax credit again since the requirements of *new and unused* will not be met.

Residence mainly used for domestic purposes

Under section 6C(3)(a), the residence that the panels are installed and mounted on or affixed to must be used mainly for domestic residential purposes by the natural person that acquired the solar PV panels.

The determination of whether a residence is mainly used for domestic residential purposes is a question of fact.

In *Glen Anil Development Corporation Ltd v SIR Botha JA* stated the following:²⁶

“Section 103(2) uses the words ‘solely or mainly for the purpose . . .’ In the *Oxford English Dictionary* ‘mainly’ is defined to mean ‘for the most part; in the main; as the chief thing, chiefly, principally’. The word ‘hoofsaaklik’ is used in the Afrikaans text. . . the onus was on the appellant to show that the transactions in question were not entered into solely or mainly for the purpose of utilizing the assessed loss or balance of assessed loss . . . That onus would be discharged if the appellant satisfied the court that the avoidance . . . was not a more important consideration in the mind of Dr Rubenstein (acting on the advice of his auditors) than the avoidance of estate duty and undistributed profits tax.”

In *SBI v Lourens Erasmus (Edms) Bpk*²⁷ Botha JA held that, in the context of an exemption for the previously applicable undistributed profits tax, the word “mainly” prescribed a purely quantitative standard of more than 50%.

¹⁷ Draft Explanatory Memorandum on the Taxation Laws Amendment Bill, 2023.

In order for a natural person to qualify for the tax credit, the residence on which the solar PV panels are installed and mounted on or affixed to must be used more than 50% during the year of assessment for domestic purposes. If the residence is used for dual purposes, for example, as a domestic residence and a portion for purposes of trade, a determination will have to be made in relation to whether the more than 50% requirement has been met. In practice, if more than 50% of a residence, measured by floor space or volume, is used during the year of assessment for residential purposes, the “mainly” requirement will be met. If, for example, the taxpayer uses 60% of the residence for residential purposes, the full tax credit under section 6C may be claimed, that is, no apportionment is necessary. On the other hand, if a taxpayer uses 50% or less of the residence for domestic purposes, no tax credit may be claimed.

Connection to the distribution board

Under section 6C(3)(b), the natural person must ensure that the solar energy system is connected to the distribution board of the residence. A distribution board is where the electrical supply is distributed from within the building. The main supply cable comes into the board and is then distributed to the breakers and from there to all the circuits, for example, the lights and plugs, amongst other things.

Electrical certificate of compliance

Section 6C(3)(c) makes it a mandatory requirement that the natural person must acquire an electrical certificate of compliance contemplated under the Electrical Installation Regulations, 2009 and issued in respect of the installation of the solar PV panels.

An electrical certificate of compliance is a legal document that verifies an electrical installation is compliant with all the legal requirements as stipulated in the Electrical Installations Occupational Health and Safety Act of South Africa on the date of inspection.¹⁸

This document is usually issued to the owner of the residence. If solar PV panels are installed and mounted on or affixed to a leased property, it would be sufficient for the person wanting to claim the tax credit to provide, as supporting documentation, the certificate as well as the rental contract indicating the names of the parties to the lease agreement.

In the absence of this certificate, a tax credit will not be available to the natural person. The taxpayer does not need to submit this certificate to SARS, but should retain it for audit purposes for a period of five years according to the record keeping requirements under section 29 of the TA Act.

2.2 Allowable amount of tax credit

The tax credit is claimed when the natural person’s normal tax payable is determined. The normal tax payable can be from any source of income, including salary income. Normal tax is defined in section 1(1) and means –

“income tax referred to in section 5 (1)”

Section 5(1)(d) states that income tax (or normal tax) must be paid annually in respect of the taxable income received by or accrued to or in favour of any person (other than a company) during the year of assessment ending during the period of 12 months ending on the last day of February each year.

¹⁸ <https://electrical-compliance-certificate.co.za/certificate-of-compliance/what-is-an-electrical-certificate-of-compliance/> [Accessed 25 January 2024].

The amount of the tax credit allowed as a deduction to an individual under section 6C(2)(b) is 25% of the cost actually incurred on the solar PV panels, up to a maximum of R15 000. The tax credit is deducted from the natural person's tax liability.

The tax credit is limited to the actual cost of the solar PV panels and excludes other costs such as supporting structures, installation costs or financing costs.

Example 2 – Allowable amount of solar energy tax credit

Facts:

Q, a natural person and homeowner, invested in the installation of a solar energy system which consisted of 20 solar PV panels which were all new and unused and had a generation capacity of 330W each. Owing to certain technical reasons the panels could not be affixed to the roof of Q's residence. The solar PV panels were mounted on to a supporting structure which was adjacent to Q's residence. All the solar PV panels were used for domestic purposes. This installation took place on 20 August 2023.

The cost of the panels (excluding installation and the other components of the solar energy system) was R70 000, that is, R3 500 per panel. All the solar PV panels met the requirements of section 6C(3) since all 20 panels were considered as being mounted on or affixed to a residence to be used mainly for domestic purposes. Before taking into account the tax credit, Q had a tax liability of R25 000 for the 2024 year of assessment.

All of the requirements under section 6C were met.

Result:

Since all the requirements of the section were complied with, Q was eligible for the tax credit on the cost of the solar PV panels at 25% but up to a maximum of R15 000.

The tax credit was calculated as follows: $R70\,000 \times 25\% = R17\,500$ limited to R15 000. Since Q could not claim more than R15 000 as the tax credit, Q's normal tax liability of R25 000 was reduced by R15 000 resulting in normal tax payable of R10 000 for the 2024 year of assessment. The remaining R2 500 ($R17\,500 - R15\,000$) was forfeited and could not be carried forward to a subsequent year of assessment.

2.3 Prohibition of double deductions

Under section 6C(4), a deduction is prohibited on the cost of any asset in respect of which a deduction has been allowed to the taxpayer under section 12B or 12BA.¹⁹ In addition, under section 23B, should a deduction be allowed under section 6C(1), no deduction will be allowed on the same amount under any other section of the Act. This ensures that there is no duplication of tax incentives in respect of the cost of a solar PV panel.

2.4 Multiple persons incurring the cost of the solar photovoltaic panels

It may occur that more than one natural person as co-owner actually incurs the cost of the solar PV panels. In these cases, provided that all the requirements of the section are met, each person will be able to claim the tax credit at the rate of 25% on their portion of the cost. In other words, each party will thus not be eligible for a credit amounting to 25% of the full cost of the panels.

¹⁹ Sections 12B and 12BA provide for capital allowances on certain assets that are used for purposes of trade and in the generation of electricity from listed renewable sources. See the *Draft Guide on the Enhanced Deduction on Certain Assets used in the Production of Renewable Energy*.

Example 3 – Multiple persons incurring the cost of the solar PV panels

Facts:

Spouses and co-homeowners X and Y jointly invested in the installation of a solar energy system at their residence. This installation took place on 1 July 2023 and included the purchase of twenty solar PV panels which were all new and unused and had a generation capacity of 550W each.

The cost of the panels (excluding installation and the other components of the solar energy system) was R84 000, that is, R4 200 per panel.

X bore 80% of the cost of the panels and Y bore the remaining 20%.

All of the requirements under section 6C are met.

Result:

Since all the requirements of the section were complied with, X and Y were eligible for the tax credit on the actual cost of the panels at 25% but up to a maximum of R15 000 each.

X's portion of the costs amounted to R67 200 ($R84\,000 \times 80\%$). The solar energy tax credit applicable to X was R16 800 ($R67\,200 \times 25\%$). This amount was, however, limited to R15 000. As such, X is eligible to a tax credit of R15 000 and the remaining R1 800 ($R16\,800 - R15\,000$) was forfeited.

Y's portion of the costs amounted to R16 800 ($R84\,000 \times 20\%$). The tax credit applicable to Y was R4 200 ($R16\,800 \times 25\%$). This amount is below the limit of R15 000. Consequently, Y is eligible for the tax credit of R4 200.

2.5 Provisional tax

Under paragraph 17 of the Fourth Schedule, all provisional taxpayers must make provisional tax payments to the Commissioner in respect of their liability for normal tax for every year of assessment. A "provisional taxpayer", as defined in paragraph 1 of the Fourth Schedule, includes natural and juristic persons.

Provisional taxpayers will be able to claim the section 6C tax credit against the provisional final tax liability subject to the maximum of R15 000.

2.6 Disposal of solar photovoltaic panels and capital gains tax

A taxpayer that subsequently disposes of solar PV panels on which the tax credit was claimed, has no recoupment of the tax credit. The purchaser of these solar PV panels will, however, not be eligible to claim the tax credit under section 6C since that purchaser will not meet the requirements (see 2.1).

The disposal of the solar PV panels may be subject to capital gains tax.²⁰

If the solar PV panels are fixed to the residence in such a way that the common law principle of accession is met, the installation of the solar PV panels may be regarded as an improvement to the residence upon which the panels are affixed to or mounted on. As such, upon the sale of the residence, the Eighth Schedule must be taken into account in respect of any capital gains or losses upon the disposal of such asset.

²⁰ See the *Comprehensive Guide to Capital Gains Tax* for more information on capital gains tax.

Under paragraph 20(1)(e) of the Eighth Schedule, the cost of improving or enhancing an asset may be added to its base cost. The base cost of an asset acquired on or after 1 October 2001 is the amount the taxpayer incurred for the acquisition of the asset plus other expenditure incurred directly related to buying, selling or improving it. The base cost does not include any amount otherwise allowed as a deduction for income tax purposes. As such, any deduction allowed under section 6C will be excluded from the base cost. The facts of each case must be evaluated when determining any capital gains tax implications.

2.7 Income tax returns

The Commissioner annually gives public notice in the Government Gazette of the persons that must furnish an income tax return.²¹

A return must be a full and true return²² and be signed by the taxpayer or by the taxpayer's duly authorised representative. The person signing the return will be regarded as being cognisant of the statements made in the return.²³

A natural person claiming the tax credit under section 6C may have to confirm the following information in the tax return:

- the number of new and unused solar PV panels installed;
- that the panels are connected to the residence's electrical distribution board;
- that the minimum generation capacity is 275W for each solar PV panel; and
- that a legitimate electrical certificate of compliance has been issued.

2.8 Recordkeeping

Taxpayers are required to keep records for five years²⁴ from the date of the submission of a return under the TA Act.²⁵

A return²⁶ includes any form, declaration, document or other manner of submitting information to SARS that incorporates a self-assessment or is the basis on which an assessment is to be made by SARS.

Although records are generally required to be kept and retained for five years, there are circumstances in which they are required to be retained for longer periods.²⁷

The required retention periods for records, books of account or documents are as follows:²⁸

- Five years from the date of the submission of a return.²⁹

²¹ Section 66(1).

²² Section 25(2) of the TA Act. Under section 234(1) a person that wilfully submits a false statement in a return is guilty of a criminal offence and liable, on conviction, to a fine or imprisonment for a period not exceeding two years.

²³ Section 25(3) of the TA Act.

²⁴ Section 29(3) of the TA Act.

²⁵ Sections 3 and 4 of the Tax Administration Laws Amendment Act 44 of 2014 amended and repealed sections 18A(4) and 30(9), respectively. These amendments came into operation on 20 January 2015.

²⁶ The term "return" is defined in section 1 of the TA Act.

²⁷ Section 32 of the TA Act.

²⁸ For further commentary, see the *SARS Short Guide to the Tax Administration Act, 2011 (Act No. 28 of 2011)*.

²⁹ Section 29(2)(a) read with section 29(3)(a) of the TA Act.

- If no return is submitted for a tax period but is required to be submitted, records, books of account or documents must be kept and retained indefinitely until the obligation to submit a return has been complied with, and then for five years from the date of submission of the return.³⁰
- If an objection or appeal against an assessment or decision is lodged, the records, books of account or documents relevant to the objection or appeal must be kept and retained until the disputed assessment or decision becomes final or the applicable five-year period has elapsed, whichever is the later.³¹
- A person notified of, or who is aware of an audit or investigation³² by SARS must retain the records, books of account or documents relevant to that audit or investigation until it is concluded or the applicable five-year period has elapsed, whichever is the later.³³

A natural person wanting to claim the tax credit under section 6C will have to retain, amongst others, the following records:

- An electrical certificate of compliance contemplated in the Electrical Installation Regulations, 2009 issued in respect of the specific installation. Such a certificate must, amongst other things, contain a certificate number and the registration number and contact details of the electrical contractor that completed the installation and certification.
- An invoice for the purchase of the solar PV panels. The invoice should reflect, among others, the number of panels purchased, the cost per solar PV panel and the wattage of each panel.
- Proof of the date of installation of the panels and the date when they were brought into use.
- Proof that the installation is in respect of a residence mainly used for domestic purposes by the natural person who acquired the solar PV panels.

The above records as well as other relevant information may be requested by SARS for purposes of the administration of section 6C.³⁴

3. Conclusion

The tax credit under section 6C is available for a limited period. The aim of this incentive is to encourage and promote renewable energy in households thereby reducing the pressure on the national electricity grid.

Section 6C applies only to natural persons meeting the strict requirements and for years of assessment commencing on 1 March 2023 and ending on 28 February 2024. Thus the allowance will only be available for one year.

³⁰ Section 29(2)(b) of the TA Act.

³¹ Section 32(b) of the TA Act.

³² For further commentary on inspections, verifications, audits and criminal investigations, see the *SARS Short Guide to the Tax Administration Act, 2011 (Act No. 28 of 2011)*.

³³ Section 32(a) of the TA Act.

³⁴ Under section 46 of the TA Act relevant material may be requested.

Annexure – The Law

Section 6C

6C. Solar energy tax credit.—(1) In determining the normal tax payable by any natural person, there must, subject to subsection 4, be deducted an amount to be known as the solar energy tax credit, equal to the amount of the rebate determined under subsection (2).

(2)(a) The solar energy tax credit applies in respect of cost actually incurred by the natural person —

(i) for the acquisition of any new and unused solar photovoltaic panels, the generation capacity of each being not less than 275W; and

(ii) if the solar photovoltaic panels referred to in subparagraph (i) are brought into use for the first time,

by that person on or after 1 March 2023 and before 1 March 2024.

(b) The amount of the solar energy tax credit allowed to the natural person referred to in paragraph (a) must—

(i) be 25 per cent of the actual cost of the solar photovoltaic panels described in paragraph (a); and

(ii) in aggregate be limited to an amount not exceeding R15 000.

(3) A solar energy tax credit will be allowed under subsection (1) only if —

(a) the solar panels are installed and mounted on or affixed to a residence mainly used for domestic purposes by the natural person referred to in subsection (2)(a);

(b) the installation is connected to the distribution board of such residence; and

(c) an electrical certificate of compliance contemplated in the Electrical Installation Regulations, 2009, is issued in respect of the installation referred to in paragraph (a).

(4) No deduction shall be allowed under this section in respect of any asset in respect of which a deduction has been allowed to the taxpayer under section 12B or 12BA.